IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 21420 of 2004

Between:

P. Sreemannarayana Reddy S/o. Late P. Ramachandra Reddy, R/o. Tondawada Village, Chandragiri Mandal,
Chittoor District.

.....PETITIONER

AND

1 The Mandal Revenue Officer, Chandragiri Mandal, Chittoor
2 The District Collector Chittoor District
3 The Government of Andhra Pradesh
rep.,by its Secretary, Revenue Department, Secretariat Buildings, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any writ, order or direction more in the nature of writ of Mandamus directing the respondents declare the petitioner as land less poor person and directed the respondents to assign the land Sy.No. 270, 271 and 272 total admeasuring Ac. 1-05 cents situated Thondawada Village, Chandragiri Mandal, Chittoor District.

Counsel for the Petitioner: MR.THIMMADISUDHAKAR REDDY

Counsel for the Respondents1to3: GP FOR REVENUE

The Court made the following:

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue and with their consent the writ petition is finally disposed of at the stage of admission.

The petitioner claims to be landless poor. He states that he encroached an extent of Ac.1-05 cents of land in survey Nos.270, 271 and 272 of Thodawada village, Chandragiri Mandal of Chittoor District, and continued in possession and enjoyment of the same for more than 35 years by paying taxes to the Government. He claims to have made an application dated 25-8-1992, to the first respondent seeking assignment of the land in his favour, but no action has been taken on his application. Therefore, he filed this writ petition seeking a direction to the respondents to assign the said land in his favour.

On instructions, the learned Government Pleader for Revenue submitted that the land in question is Kalva land belonging to the Government and the first respondent-Mandal Revenue Officer issued notice under Section 6 of the A.P. Land Encroachment Act, 1905 in Roc. A/911/03 dated 22-8-2003 calling upon the petitioner to vacate the land within 15 days from the date of its service. He also submitted that since the petitioner refused to receive the said notice, substitute service was effected by hanging the said notice to a stick erected in the land in question as contemplated under the provisions of A.P. Land Encroachment Act, 1905 under a panchanama in the presence of witnesses and the staff of the first respondent. He further submitted that suppressing the said fact, the petitioner came up with the present writ petition to avoid the proceedings under A.P. Land Encroachment Act, 1905 being initiated by the first respondent. It is also submitted that the petitioner is not a land less poor and inasmuch as he is a wealthy person, he is not entitled for assignment of the land. It is also stated that the subject lands are abutting national highway

and are very useful for public purpose.

Any assignment of Government land to the landless poor or encroachers thereof is within the exclusive domain of Revenue Officials, and it can generally be granted in accordance with the policy decision of the Government after considering the ground realities namely, availability of suitable land, social status, eligibility criteria and economical condition of the beneficiary and conducting necessary enquiry in accordance with the procedure contemplated under law. Therefore, the petitioner cannot claim assignment as a matter of right in the guise of possessing and enjoying the land for a substantially longer period by paying taxes to the Government.

Inasmuch as, it is stated, proceedings had been initiated by issuing show-cause notice under the provisions of the A.P. Land Encroachment Act, 1905 for evicting the petitioner from the Government land in question, the only course open to the petitioner is to file his explanation as to why he should not be evicted, and certainly when proceedings under the A.P. Land Encroachment Act, 1905 are initiated against him for his eviction, he cannot seek assignment, and in the guise of seeking directions to the respondents to assign the land, he cannot be allowed to continue in the encroached land, thereby frustrating the proceedings initiated against him for his eviction under the A.P. Land Encroachment Act, 1905.

In the above view of the matter, the writ petition has no merit and the same is dismissed accordingly at the stage of admission. No costs.

01.12.2004

MRKR/TVK

To

1 The Mandal Revenue Officer, Chandragiri Mandal, Chittoor District.
2 The District Collector Chittoor District.
3 The Secretary, The Government of Andhra Pradesh.
Revenue Department, Secretariat Buildings, Hyderabad.

4 Two C.Cs to the Government Pleader for Revenue, High Court Buildings, Hyderabad. (OUT)

5 Two C.D.copies.